

To The DRB Jericho Vermont:

This communication is to update our previous package and to share a series of relevant discussions about what we are proposing to do.

First what do we propose?

The 5 Criteria

1) A Request for a Variance:

Under Title 24, Section 4468From: There are 5 criteria to obtain a variance. See attached Exh. 1

A), Physical Characteristics; the area is pinned between the VAOT ROW and the Winooski River. It is steep, Narrow and must maintain access for agricultural uses.

B) There is no way to do the work in strict conformance with regulations. Plan was done by the then Town engineer Mike Weisel.

C) Was not created by the Appellant. This was a donation to Town and Land trust to improve existing public access and to perpetuate Public Access.

D) Alter the Character: The proposal is to make a bad situation safer. So the only criticism is if the Standard is to be considered unsafe. So the only alteration is safer and better.

E) Minimum Relief: We have studied and restudied this multiple times. There is no other way to do this without moving either the State Highway/Winooski River or both!

2) Site plan approval:

This is a request for the obvious but apparently needs to be approved. The Trails Committee acting on Behalf of the Town wants to maintain the ability of the citizens to walk on the easement. To mitigate any adverse effects of walking on the easement. To try to make walking on the easement as safe and pleasurable as possible. To Act as good keepers of the environment by mitigating to the extent possible the adverse effects of no-stewardship.As it is now! Presently the area is used by Fisherman and hunters and some adventuresome people. But it is also used for all types of undesirable activities on an uncontrolled basis. Drug and alcohol consumption and dumping of drug paraphernalia, garbage, trash and other illegal waste. Proposal and safer public involment should mitigate the dangerous behaviors.

We have now discovered that due to the mismanagement of the environment by others. That the area is being overrun by invasive species and poor erosion control. By making this abuse known, encouraging folks (Boy Scouts/environmentalists/caretakers etc.) Jericho can begin to help eradicate Knotweed and apply pressure to ANR to mitigate the significant erosion.

If you read the various emails you will see that our Government has created so many overlapping zones overlays and rules that confusion reigns. Sadly all this regulation does not result in better outcomes. It is in your hands to decide if we have to spend a lot of money to get something we have from Google Maps on line. Or a simple site walk. The estimates are \$10-20,000.

It would seem that since no structures are being built. That in 40 years the water has never approached the Parking area. If it were to there would be far more serious consequences. Five corners would be underwater and Winooski would be in the Lake.

Michele and trails committee walked the proposed trail and her app plotted it.

It seems as though it is left to the DRB to accept the simple determination that a trail is not a structure. That was the trail to be successful that maybe some gravel might be used to fill pot holes.

So we ask that you determine that an H and H report is not needed. That Michele's plot is satisfactory. And give approval for citizens to walk on the donated easement. Additions would include a sign stating rules. Safe driveway access. Ability to control misuse. Desire to improve a deteriorating condition. IE Knotweed continues the debate maybe simpler. Knot weed drives out native species. It has a poor root structure so areas it populates erode much more readily. So if we don't create safe access, increase public awareness then the worst will happen. Jericho will join many other towns contributing to the siltation and erosion of its river way.

We don't believe as discussed below that there is an encroachment and actually challenge that this is development in terms of consequence.

Rather than try to explain the nuance and lack of clarity I have attached the various emails that define our situation.

I think if we asked 10 lawyers and related experts we would have 9-11 different opinions. In our guts we believe this is within the capability of the DRB to approve as is as to both Variance and site plan.

Jim Carroll [<mailto:fivecs@sprynet.com>]

Sent: Monday, March 07, 2016 11:35 AM

To: 'Michelle Patrick'

Subject: RE: Winooski River Trail

Hi Michelle,

Nice job.

I think we should update our application get it submitted and put it to the Board. Between now and then we meet with ANR.

I think you have developed this well.

We need to hit it running this spring.

I think getting rid of knotweed and reseeding all that is a good idea.

I am so disgusted by the complexity we are subjected to while the whole lot is being washed into the lake by the river intersections. It is really bad.

From: Michelle Patrick [<mailto:mpatrick@jerichovt.gov>]

Sent: Monday, March 07, 2016 10:25 AM

To: Jim Carroll

Subject: FW: Winooski River Trail

Thoughts?

From: David Conger [<mailto:dconger@dubois-king.com>]

Sent: Friday, March 04, 2016 4:22 PM

To: Michelle Patrick
Subject: RE: Winooski River Trail

Michelle

If the trail is at grade and structures are out of the floodway, there certainly would be no impact and a letter stating such certainly could be written up. This would likely need to be paired with a plan showing the routing of the trail at the very least.

I would hate to waste time and \$ even with a "simplified h&h study" but if necessary this could be done too. It would probably include a similar letter and plan as the above plus a printing out of the Winooski Corps existing condition model for the subject reach. A proposed model run would be no different so that wouldn't be necessary.

David

From: Michelle Patrick [<mailto:mpatrick@jerichovt.gov>]
Sent: Friday, March 04, 2016 12:59 PM
To: dconger@dubois-king.com
Subject: Winooski River Trail

Hi Dave-

Coming to you again with some questions about the river trail. The last time we spoke was early February, and since then I was able to touch base with Rebecca Pfeiffer of state rivers program. She stated that our options on moving forward were the following:

"I can't tell you or the Board what exactly to do or how to proceed, but you do have options:

1. Move the trail out of the floodway
2. See if the DRB could either waive the h&h since there is no new encroachment in the floodway as long as the trail is at grade; or if a waiver of some sort is not possible if the DRB could accept a signed letter from a PE that states that an h&h cannot be done since there will not be any encroachment to model
3. Have a PE do a simplified h&h analysis that can be submitted for permitting purposes"

Do you think you could provide a "simplified h&h study" as she describes above? If we keep the structures out of the floodplain?

Let me know what you think.

Michelle

Michelle Patrick
Zoning Administrator and Planning Assistant
Town of Jericho
67 Vermont Route 15, PO Box 39
Jericho, VT 05465
802-899-9970 ex.104

From: Michelle Patrick [<mailto:mpatrick@jerichovt.gov>]
Sent: Friday, March 04, 2016 12:43 PM
To: Jim Carroll
Cc: John Abbott
Subject: FW: DR submission checklist// VT 117 Winooski River Trail

FYI—letter from Rebecca Pfeiffer received earlier in February.

From: Pfeiffer, Rebecca [<mailto:Rebecca.Pfeiffer@vermont.gov>]
Sent: Friday, February 05, 2016 8:56 AM
To: Michelle Patrick
Subject: RE: DR submission checklist// VT 117 Winooski River Trail

Hi Michelle,

If you are around late morning, I will plan to give you a call. Two quick thoughts about the project:

- For a town trail project, our state floodplain office doesn't issue any permits for development in the floodway. That is the responsibility of the community. Our office only issues floodplain permits for development that is exempt from local permitting, specifically state owned and operated facilities, agriculture and silviculture, and power generating/transmission facilities regulated under Section 248. Our office provides comments to the community on local municipal floodplain reviews, but we're not actually issuing a permit. My comments would focus on ensuring that the project met the minimum standards for the National Flood Insurance Program (NFIP), and how that is achieved through the local floodplain regulations.
- According to the NFIP's definition of development, I would disagree with the opinion that the trail should *not* be considered "development". Under the NFIP, development is any human change to improved or unimproved real estate. Although the definition calls out buildings and structures, grading, paving, excavation, mining, storage of equipment or materials as specific things that does fall under development, the definition is not limited to those specific things. However, I do that while the new trail should be considered development, I do not think that the trail would be an *encroachment*, something that would divert or increase flood flows. Typically we have worked with communities to potentially waive the floodway analysis ONLY in the situation when there is development occurring, but there will be no new encroachment, such as the proposed trail or other below-grade utilities. The way that the language in 8.7.1.1 of the Jericho Zoning reads, it is a little uncertain since it says "Development, or other encroachments, within the regulatory floodway...."
- If for some reason the DRB gets to a point that they would still require an hydraulic and hydrologic analysis of the path, although it is proposed to be at grade and not a new encroachment, it should not cost nearly as much as you were quoted. Good elevation data already exists, and the path would be located at grade, meaning there would be not encroachment or blockage to flow to enter into the model analysis.

I can't tell you or the Board what exactly to do or how to proceed, but you do have options:

4. Move the trail out of the floodway
5. See if the DRB could either waive the h&h since there is no new encroachment in the floodway as long as the trail is at grade; or if a waiver of some sort is not possible if the DRB could accept a signed letter from a PE that states that an h&h cannot be done since there will not be any encroachment to model

6. Have a PE do a simplified h&h analysis that can be submitted for permitting purposes

Rebecca J. Pfeiffer, CFM | VT DEC Watershed Management Division |
River Corridor & Floodplain Protection Program
C 802.490.6157 | F 802.879.3871

PLEASE NOTE MY NEW EMAIL ADDRESS: Rebecca.Pfeiffer@vermont.gov

From: Michelle Patrick [<mailto:mpatrick@jerichovt.gov>]
Sent: Thursday, February 04, 2016 3:41 PM
To: Pfeiffer, Rebecca
Subject: DR submission checklist// VT 117 Winooski River Trail

Hi Rebecca,

Coming to you again with some questions regarding a proposed trail along the Winooski River and VT Route 117 (approximately 1.5 miles in length). Much of this proposed trail is within the FEMA regulatory floodway and/or the SFHA. This project is being undertaken by the town, and spearheaded by myself and the Trails Committee.

We are looking to keep the momentum going. After a sketch review with the DRB on December 10, it was apparent that we needed some kind of state approval if we were going to put a trail in the FEMA regulatory floodway- our regulations state that a hydraulic and hydrologic study is necessary before the DRB can approve. Upon talking to consulting engineer Dave Conger, he told a study such as that would run \$15-20k, way outside the budget on a project of this scale.

The basics: The trail has been proposed to be largely unimproved. At grade, no fill. There is an issue with crossings- there are a couple culverts that may require us to put a board over. Dave also mentioned that we may need a stream alteration permit if more than 10 yards of excavation is conducted. There is also a parking lot issue. There is an existing parking approximately a quarter of a mile north of the intersection of barber farm road- but needs to be improved:

Latitude 44.46

Longitude -73.02

It's very close to being in the river corridor. From the local perspective, it's outside the SFHA, but within our river overlay district.

I'm looking to you for help figuring out the next step. My initial reaction is to go before the Jericho DRB for conditional use approval to construct the parking lot and trail in the River Overlay (as "general recreation"). My concern is the path of the trail within the regulatory floodway- if this trail is literally unimproved, at grade, with no structures, can the state really consider it "development"? If we have to improve the trail in an area that's only located in the SFHA or fringe area, then are we under less strict standards?

Any advice here would be helpful. I'd really like to talk to you when you have a moment! My hours: M,T, TH 10-4, and Friday 8-2. In tomorrow, but out next week. Back on the 16th.

Michelle

Michelle Patrick
Zoning Administrator and Planning Assistant
Town of Jericho
67 Vermont Route 15, PO Box 39
Jericho, VT 05465
802-899-9970 ex.104

**In Closing we have requested your approval as is without further study or expense. If carefully read it seems to be within your authority:
To approve variance and use of trail without H and H study as nothing is changing grade.**

Attachments
Application
Prior applications
Prior correspondence
Current correspondence
Variance regulations EXH 1
Site Plans